



STATE OF NEW JERSEY
Board of Public Utilities
Two Gateway Center
Newark, NJ 07102
www.bpu.state.nj.us

TELECOMMUNICATIONS

IN THE MATTER OF THE JOINT PETITION)
OF HYPERCUBE, LLC AND KMC DATA)
LLC FOR GRANT OF AUTHORITY TO)
COMPLETE A SERIES OF)
TRANSACTIONS RESULTING IN A)
TRANSFER OF CONTROL OF AN)
AUTHORIZED CARRIER)

ORDER OF APPROVAL

DOCKET NO. TM05121070

(SERVICE LIST ATTACHED)

BY THE BOARD

On December 29, 2005, a verified petition was filed with the Board of Public Utilities (Board) by Hypercube, LLC (Hypercube), and KMC Data LLC, (KMC Data), (together, Petitioners), by their attorneys, seeking approval pursuant to N.J.S.A. 48:2-51.1 and N.J.S.A. 48:3-10 for the transfer of control of KMC Data to Hypercube. The Petitioners have agreed to complete a series of transactions whereby Hypercube will acquire (among other things) all of the outstanding membership interests of KMC Data. Following the transactions, KMC Data will be a direct, wholly owned subsidiary of Hypercube while retaining its authorization to provide telecommunications service in New Jersey.

BACKGROUND

KMC Data is a limited liability company organized under the laws of Delaware, with its principal place of business located in Bedminster, New Jersey. KMC Data is an indirect, wholly owned subsidiary of KMC Telecom Holdings, Inc. (KMC Holdings), which in turn is owned by a group of investors. KMC Holdings controls a family of companies that provides various regulated communications services and other services. KMC Data received its authority to provide local exchange and interexchange telecommunications services in New Jersey on October 23, 2003. See I/M/O the petition of KMC Data, LLC for authority to provide local exchange and interexchange telecommunications services in the state of New Jersey, Docket No. TE01100637. According to the petition, KMC Data's operations are focused on the provision of tandem services to wireless carriers, interexchange carriers, competitive local exchange carriers and incumbent local exchange carriers.

Hypercube is a limited liability company formed under the laws of the State of Delaware. Hypercube's principal place of business is located in Bedminster, NJ. Hypercube is a newly formed entity which is managed by former members of the senior executive team of the KMC Companies. The petition states that Hypercube is owned by Nassau Capital LLC, Annex Holdings I LP, and Kamine Credit Corporation. These entities also held shares equating, in the

aggregate, to a minority ownership of KMC Holdings, and thus KMC Data. The petition also states that Hypercube was formed for the purpose of acquiring KMC Data in order to allow the continued provision of service to customers of the KMC tandem service business. Due to financial circumstances, the KMC companies had decided to discontinue service to some customers in some areas.

DISCUSSION

The Petition states that the Petitioners have agreed to complete a series of transactions whereby KMC Data will become a wholly owned direct subsidiary of Hypercube. In connection with the proposed transactions, Petitioners propose that Hypercube will directly acquire all of the outstanding membership interests of KMC Data. The change in ownership will be structured as a direct acquisition by Hypercube of the KMC Data membership interests. Under the terms of the Asset Purchase Agreement, Hypercube will acquire the membership interests of KMC Data in return for a \$1.6 million subordinated promissory note, along with certain other consideration including the assumption by Hypercube of certain liabilities of the KMC companies. According to the petition, KMC Data will continue to operate and provide services to its customers and will retain the assets used in the provision of those services.

Petitioners assert that the transfer will serve the public interest by increasing competition in the New Jersey telecommunications market by ensuring the ability of KMC Data to remain a viable and effective competitor and ensuring that customers of the tandem services business can continue to receive service on an uninterrupted basis. Petitioners further assert that the transfer will not result in any employment changes in New Jersey.

Petitioners also point out that the change in ultimate ownership of KMC Data will not have any adverse impact on rates or on the provision of safe and adequate service at just and reasonable rates as customers will continue to receive service under the same rates, terms and conditions.


FINDINGS AND CONCLUSIONS

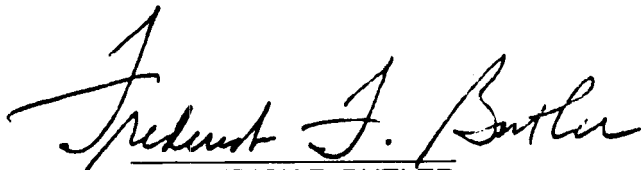
After a thorough review of the petition and all related documents, the Board concludes that, there will be no negative impact on service quality to New Jersey customers or the rates they pay. Nor will there be a negative impact on competition. Moreover, a positive benefit may be expected from the strengthening of KMC Data's competitive posture in the telecommunications market.

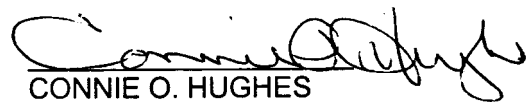
Accordingly, after careful review of this matter, the Board FINDS that the transaction will have no negative impact on competition, the rates of current customers, or on employees. The Board also FINDS that the transfer will have no negative impact on the provision of safe, adequate and proper service, and will positively benefit competition. Therefore, the Board, after investigation, having considered the record and exhibits submitted in this proceeding, FINDS that the transfer is in accordance with law and in the public interest. The Board HEREBY ORDERS that Petitioners shall notify the Board of the closing of the proposed transaction within ten (10) days of consummation of the transfer. The Board FURTHER ORDERS that the approval in this Order shall become null and void and of no effect to the extent it has not been exercised prior to August 31, 2006.

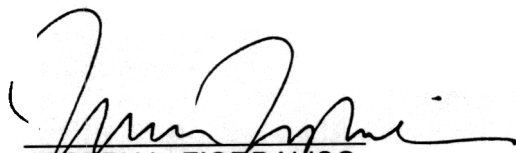
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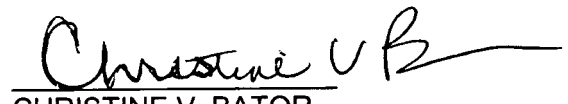
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COMMISSIONER


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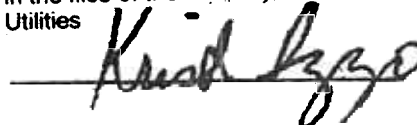

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COMMISSIONER

ATTEST


KRISTI IZZO
SECRETARY

I HEREBY CERTIFY that the within
document is a true copy of the original
in the files of the Board of Public
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